

June 20, 2019



Talbot County Planning Commission
Final Decision Summary

Wednesday, April 3, 2019 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Paul Spies, Chairman
Phillip "Chip" Councell, Vice Chairman
William Boicourt
Michael Strannahan

Staff:

Mary Kay Verdery, Planning Officer
Miguel Salinas, Assistant Planning Officer
Brennan Tarleton, Planner I
Elisa Deflaux, Environmental Planner
Mike Mertaugh, Assistant County Engineer
Tony Kupersmith, County Attorney
Carole Sellman, Recording Secretary

- 1. Call to Order**—Commissioner Spies called the meeting to order at 9:00 a.m.
Commissioner Spies stated Mr. Armistead wanted to make a brief comment.

Mr. Armistead stated he spoke with Jamie Garner (Sullivan) and mentioned to her all of the comments the Commission and staff had made regarding Commissioner Sullivan and his major contribution to the Commission. Ms. Garner was very appreciative of the comments.

- 2. Decision Summary Review**—March 6, 2019—The Commission noted the following corrections to the draft decision summary:
- a. Line 136, correct to read: "until they receive a letter from the Planning Office and, once received, will take several months for review."
 - b. Line 196, correct "Gregory Strong;" to read: "Gregory Strong, property owner;"
 - c. Line 210, correct "Article 4" to read "Article V".

Commissioner Boicourt moved to approve the draft Planning Commission Decision Summary for March 6, 2019, as amended. Commissioner Strannahan seconded the motion. The motion carried unanimously.

- 3. Old Business**—None.

4. New Business

Commissioner Spies explained there were only four (4) members of the Commission present and that a tie vote is considered a negative vote. He stated that any applicant may choose to withdraw their application until the next month without penalty.

- 55 a. Sketch Major Revision Plat—Tyler Carr—22989 & 22973 Twin Pines Road,
56 Bozman, MD 21612 (map 31, grid 9 & 15, parcel 93, Lots 1, 2 & 3, zoned Village
57 Hamlet), Elizabeth Fink – Fink, Whitten & Associates, LLC, Agent.

58
59 Mr. Tarleton presented the staff report and stated the purpose of the major
60 revision plat was to reconfigure three (3) existing lots of record as well as
61 abandoning a private road right-of-way recorded and identified as “Winterbottom
62 Lane”. According to *Talbot County Code* §190-71.2.A.1., he added, any revision
63 plat that results in the modification or relocation of a public or private road right-
64 of-way, except to bring a road right-of-way up to standards, requires a Major
65 Revision Plat and the Talbot County Planning Commission is the approving
66 authority for all Major Revision Plats consistent with §190-71.4.B.

67
68 Staff recommendations include:

- 69
70 1. Address the March 13, 2019 Technical Advisory comments from the
71 Department of Planning and Zoning, Department of Public Works,
72 Environmental Health Department, Talbot Soil Conservation District and the
73 Environmental Planner prior to the Preliminary Plat submittal.

74
75 Ms. Fink outlined the history behind the project; Mr. Carr inherited the land from
76 his father, his father had some financial difficulty in the early 1970s and 1980s,
77 Mr. Carr is configuring the subdivision to have two waterfront lots and make the
78 property more valuable for his later age, and Mr. & Mrs. Carr are moving back
79 and want to take advantage of the waterfront and improve the property. She stated
80 that revised Lot 2 and revised Lot 3 are riparian lots, they are abandoning
81 Winterbottom Lane and all of the lots will have access from Twin Pines Road.
82 She added that the perc tests on Lots 2 and 3 are in the Health Department for re-
83 evaluation and the perc test on revised Lot 1 are in the Health Department as well.

84
85 Commissioner Boicourt asked about the configuration of the lot line between Lots
86 1 and 2. Ms. Fink responded the line was configured to maintain two acres and to
87 maintain the septic system, although the lot line may change due to the failing
88 septic system; money for a new system has been applied for.

89
90 Commissioner Strannahan asked about the right-of-way to Twin Pines on the
91 neighboring lot owner. Ms. Fink responded that the next-door neighbor comes
92 across Mr. Carr’s property to access his lot and they will plat an easement on the
93 preliminary plat.

94
95 Commissioner Spies asked for public comments; none were made.

96
97 **Commissioner Boicourt moved to grant sketch plan approval for Tyler Carr,**
98 **22989 and 22973 Twin Pines Road, Bozman, Maryland; all staff conditions**
99 **being complied with; Commissioner Strannahan seconded the motion. The**
100 **motion carried unanimously (4-0).**

- 101
102 b. Recommendation to Board of Appeals—Top of the Bay Pet Lodge, Inc., c/o
103 Gregory O. Strong, Property Owner, #19-1691—6026 Ocean Gateway, Trappe,
104 MD 21673 (map 48, grid 5, parcel 113, zoned Agricultural Conservation), Bruce
105 Armistead, Armistead, Lee, Rust & Wright, P.A., Agent.
106

107 Ms. Deflaux presented the Staff Report for a modification to an existing Special
108 Exception for a commercial kennel on the property addressed at 6026 Ocean
109 Gateway, Trappe, Maryland. She stated that the purpose of the request is to
110 relocate the proposed kennel building from a location approved by the most recent
111 modification to the Special Exception (Appeal #18-1682), due to site contours,
112 stormwater management and other engineering issues. Ms. Deflaux described the
113 kennel operation as including a new two-story building, with 6,200 square feet of
114 kennel operations on the first floor and 833 square feet on the second floor for
115 storage, four outdoor exercise paddocks totaling 19,797 square feet, and an
116 additional 5,847 square feet of covered exercise area (under roof). She added that
117 the applicant is also seeking a modification to the Special Exception to continue
118 the use of an accessory structure for storage and training associated with the
119 kennel use.
120

121 Staff comments include:
122

- 123 1. In order to replace and relocate the current building via the major site plan
124 process, a modification to this Special Exception use must be granted from the
125 Board of Appeals. Without the modification being granted, the requested
126 variance would be null along with the rest of the proposed improvements that
127 the applicant has requested. Staff recommends approval of this Modification
128 to the Special Exception to allow for the kennel operation.
129

130 Staff recommendations include:
131

- 132 1. The applicant shall take all of the required steps and acquire all necessary
133 approvals, including any additional waivers necessary, required for a Major
134 Site Plan and Landscaping Plan as spelled out in the *Talbot County Code*.
135 2. The applicant will need to address forest conservation for the redevelopment
136 of the site.
137 3. The kennel capacity for boarding is limited to a maximum of 100 dogs. The
138 applicant will maintain a census log with the number of dogs on site at all
139 times.
140 4. The approval is subject to a determination by the Talbot County Health
141 Department, Office of Environmental Health of the wastewater design flow of
142 the commercial kennel operation.
143 5. The dogs are required to be contained within a fenced area at all times.
144 6. Any landscape screening and fencing, as well as noise attenuation measures,
145 required by the site plan shall be implemented before the occupancy or use of
146 the new building.

Bruce Armistead, Armistead, Lee, Rust and Wright appeared on behalf of Greg Strong, property owner, who was also present. Mr. Armistead described the application; the kennel operation has existed on this site since the early 1960's, Mr. Strong obtained the facility in 1984; the kennel operated as a non-conforming use in the VC Zone; and as a result of a zone change to the property from VC to AC, the kennel is now a permitted use. He also described the septic system issue on the property; although the site has substantial acreage the soils are not great; it has been a significant effort to develop, implement and install a septic system that would accommodate the kennel that involved a lot of work with the Talbot County Health Department; and there is a new state of the art, complicated and expensive septic system installed on the site but not yet in operation, but installed.

Mr. Armistead stated they previously went before the Board of Appeals for a modification to their existing Special Exception without going through the site plan process; Mr. Strong needed the comfort of the use approval by the Board of Appeals before he moved forward to spend significant dollars on the new septic system. He noted that the Board of Appeals approved the modification and they proceeded with the site plan process. Mr. Armistead explained that during the course of developing the site plan, the engineers determined that the area of the site that had been approved for the kennel structure was not feasible and the proposal now is to relocate the actual structure more to the north on the site.

Mr. Armistead noted that the relocation of the kennel is the only change that is being proposed; some of the exercise paddocks might be reconfigured slightly, but the structure is the same that was previously approved. He stated that several variances from the Board of Appeals were also approved and the new location requires one additional variance from one neighboring property.

Mr. Armistead concluded that the property owner is here to request a modification of the Special Exception that was approved in January of this year to relocate the structure to the new location further north on the site. He noted they are scheduled in front of the Board of Appeals on April 29th.

Commissioner Boicourt asked if neighbors voiced concern when the applicant previously went before the Board of Appeals. Mr. Armistead responded they did not, and he further responded that one neighbor spoke on their behalf.

Commissioner Spies asked for public comments; none were made.

Commissioner Cuncell moved to recommended the Board of Appeals approve the modification of the Special Exception for Top of the Bay Pet Lodge, Inc., c/o Gregory O. Strong, 6026 Ocean Gateway, Trappe, Maryland; with all staff conditions being complied with; Commissioner Strannahan seconded the motion. The motion carried unanimously (4-0).

c. Recommendation to County Council—Critical Area Amendments to Chapter 190—Critical Area Commission Conditional approval of Bill 1401

Ms. Verdery stated the Critical Area Commission conditions to Bill 1401 will require a recommendation to the County Council. She described the amendments to Bill 1401 as an update to the Zoning Ordinance, Chapter 190. She stated the Critical Area Commission appointed a review panel who came to Talbot County and met with citizens about any concerns which were followed with a few meetings in Annapolis. She noted the panel presented their findings to the Commission on February 6th and the panel made several recommendations for amendments to the Zoning Ordinance.

Ms. Verdery outlined sections of Bill 1401 to be amended which includes the rewording of certain language in Section 190-15; the adoption of certain reporting requirements related to buffer establishment; and other conditions to add certain critical area disclosures to short-term rental house rules; and on a two-year basis the County provide certain reports of the effectiveness of the change of the buffer establishment requirements we have outlined in our Zoning Ordinance.

Ms. Verdery described further amendments to Section 15.6 regarding requirements specific to an RCA or LDA and specific to removal of existing forest and developed woodland.

Regarding the Shoreline Development Buffer (SDB), Commissioner Spies asked if mitigation could occur anywhere in the County or did it have to occur on the lot. Ms. Verdery responded that there is a preference order; mitigation has to occur on the lot first, then within the critical area, then there is a fee-in-lieu. Commissioner Spies asked about the cost of the fee-in-lieu. Ms. Deflaux responded that the fee in lieu was \$0.30 per square foot and if mitigation is 2:1 then the fee-in-lieu is \$0.60 per square foot. Commissioner Spies asked if there was a place to plant off-site. Ms. Deflaux responded that currently there is not a place to plant and hopefully, in time, the County will be able to purchase property for plantings.

Mr. Verdery stated for SDB establishment, there are amendments for when establishment is based on square footage outside of the buffer. She also described that: In Section 190-28 there is an additional regulation specific to the RC zoning district. This addition in effect states that accessory structures shall not exceed a cumulative total of 20,000 square feet; this total may be increased through the use of growth allocation.

Section 28.12 Natural Resource-Oriented Public Recreation, Education and Research includes two additions which the Board of Appeals shall review:

236 “6. The use must conform to the general findings and requirements for
237 special exceptions in Article VII and the general requirements for the use
238 in §190-15, Critical Area Overlay District.
239

240 7. In the RC District, any proposed change of use from Natural
241 Resource-Oriented Public Recreation, Education, and Research to another
242 permitted use in the RC District shall be reviewed by the Critical Area
243 Commission for consistency with the purposes and characteristics of the
244 Resource Conservation Area (RCA).”
245

246 Ms. Verdery stated Section 190-49 added additional sections: D. Final Written
247 Decision or Order; E. Appeal Process; and F. A permit or approval of any type on
248 a property affected by the final written decision or order may not be issued until
249 after the expiration of the time within which the Critical Area Commission may
250 file an appeal or a petition for judicial review. Commissioner Spies asked if our
251 written decision meets that process. Ms. Verdery stated it does.
252

253 Section 55.5 Growth Allocation in the RC district also has to follow growth
254 allocation requirements in Section 190.55.
255

256 Ms. Verdery stated this was all laid out in a letter provided from the Critical Area
257 Commission which is also an attachment which outlines their approval of these
258 conditions.
259

260 Commissioner Boicourt stated when the Critical Area laws started they came up
261 with a block of acreage that would allow you to develop close to the water. He
262 asked Ms. Verdery how many acres the County has left. Ms. Verdery responded
263 that the acreage was split in half and the County could only use the second half
264 when 90% of the first half was used. She stated that the first half was then split
265 between the Towns of Easton, Oxford, and St. Michaels and Talbot County. She
266 noted the Town of Easton has used their share and more and the Town of Oxford
267 has used very little and has no intention of using any more. The County would
268 never reach the 90% because the Town of Oxford will never use their share; the
269 amendment in 1401 is to do away with that 50% split.
270

271 **Commissioner Boicourt moved to recommend that the County Council**
272 **approve the Critical Area Conditions to Bill 1401 – A Bill to amend certain**
273 **critical area provisions in Chapter 190 of the *Talbot County* Code (Next Step**
274 **190 Zoning Ordinance), to adopt certain reporting requirements related to**
275 **buffer establishment, and to add certain critical area disclosures to short-**
276 **term rental house rules consistent with and to implement the terms and**
277 **conditions of the Maryland Critical Area Commission’s approval of Talbot**
278 **County Bill 1401, which includes all Critical Area suggested amendments;**
279 **Commissioner Strannahan seconded the motion. The motion was unanimous**
280 **(4-0).**
281

d. Recommendation to County Council—Critical Area Amendments to Chapter 190—Critical Area Commission Conditional approval of Bill 1376

Ms. Verdery stated the Planning Commission made a recommendation and the County Council approved the zoning maps under Bill 1376. The title of that Bill 1376 included the amendments to the zoning boundaries as well as the catalog of Limited Development Areas (LDA) and Intensely Developed Areas (IDA). We also have certain lands classified as Resource Conservation Areas (RCA) which is only the Rural Conservation (RC) zoning district. The Intensely Developed Area is our commercial industrial districts that are 20 acres or greater, or some pockets of industrial area that existed when we were mapping our Critical Area in 1989. LDAs are other developed areas such as our villages, Town and Rural Residential Zoning, and some smaller commercial/industrial areas. Ms. Verdery stated they developed a book or “catalog” of the LDA and IDA areas and this is what the Critical Area approved in 1989. This catalog was adopted along with the zoning maps and has been updated along with any amendments to the maps. What happened when we got to the Critical Area Commission with Bill 1376, was they approved the change of zoning and anything that was downzoning. We had 29 lots that went from RC zoning (RCA) to Village Center zoning (LDA). They returned that portion and said you need to put into your Zoning Ordinance a Comprehensive ability to make these changes throughout the County. Under 1401 we created Section 190-15.J which was a process to comprehensively amend the Critical Area designation maps. For reference today we have provided you with two sets of maps. If you place the maps side-by-side you can see where we increased the village zoning boundaries on one map and consistently amended the LDA boundary on the other map. What the Council is charged to do for these areas is to: a) show consistency with the Comprehensive Plan, b) consistency with the State environmental policies, the Merlin Resources Maps, c) impacts on priority preservation area, d) environmental impacts within coastal hazard areas; e) whether the area is located in a manner that minimizes impact to habitat protection areas, optimizes benefit to water quality, and minimizes impact to agricultural land and forest; f) whether it is served by a public wastewater system or uses the best available nitrogen removal technology consistent with our comprehensive plan and comprehensive water and sewer plan, and g) for a new IDA, whether the area will have an allowed average density of at least 3.5 units per acre, if a new IDA is great than 20 acres be locate in a priority funding area, or have a demonstrable economic benefit to the area.

Commissioner Boicourt asked what are MERLIN (Maryland Environmental Resources and Land Information Network) Resource Maps. Ms. Verdery responded they are state resource maps that have different layers of environmental features and resources you can apply to see the overlay on your property.

Commissioner Spies asked for public comment, there was none.

Commissioner Boicourt moved to recommend the County Council approve the Critical Area Commission conditions to Bill 1376 – to authorize submission of an application to the Maryland Critical Area Commission pursuant to Talbot County Code Section 190-15.J. for the comprehensive review and reclassification of Twenty-Nine (29) parcels or portions of parcels, totaling 35.35 acres, from Rural Conservation Area (RCA) zoning to Limited Development Area (LDA) zoning as shown on Critical Area LDA Maps 32, 42, 48, 52, 53, 58, and 69, amended by Talbot County Bill 1376; Commissioner Strannahan seconded the Motion. The motion carried unanimously (4-0).

5. Discussions Items

a. Other Non-Critical Area Amendments to Chapter 190

Ms. Verdery stated that having had the opportunity to use Chapter 190 for a few months; staff has found a few areas that need tweaks or improvements. She noted these items would not require the County to go back before the Critical Area.

Under Section 10.b. add “Unless located on a State arterial or collector roadway”. Under item c. On any single day, no more than 10 truck trips may be generated by the cottage industry “excluding” employee’s commuter vehicles arriving at or leaving the site. Ms. Verdery stated that depending on the property size, a business may have up to seven employees, so it was decided to exclude the employees in the 10 daily trips.

Section 190-33.20.9. Short-Term Rental should state a third party “International Code Council” certified building inspector. Ms. Verdery stated that since it is required we follow the International Code for inspections it should be spelled out for the inspectors too.

Section 190-41 Off-street parking loading; off-street loading, a new section 6. was added. We had a few waivers associated with the parking standards so we wanted to provide some additional information.

Section 190-50.1 Expansion does not increase a non-conformity – Ms. Verdery stated we had language in the Ordinance that would allow for a vertical expansion within the Shoreline Development Buffer, we wanted to expand the ability for a vertical expansion in a property line setback. We wanted to make sure that a building expansion is no closer to the property line than the existing walls.

Section 190-60.2 Types of approval required. This required a change in use from one approved use to a similar approved use in which no exterior alteration were required. The second use allows for 500 feet of outdoor space. The proposal would strike waivers from the provisions and allow more significant variances to go before the Board.

373 Section 190-63 – You are required to submit by certified mail a notice of your
374 application to everyone within 1,000 feet. There was a second requirement to send
375 an agenda notice by certified mail to the same adjacent property owners which
376 also referred them to our website to keep track of the meetings. We feel the
377 second notice with the Agenda can be done by first class mail, but with a
378 Certificate of Service to be provided to our office.
379

380 Land use Category – There was previously a land use category for landscape
381 contractor. The County Council struck that category. We want to move Property
382 Maintenance and Landscape to the Building Trade and Contracting definition
383 because that is a land use category adopted in our Code.
384

385 Under short-term rentals we increased the minimum number of nights from 1 to 3
386 under Bill 1401 and are proposing to amend the definition for consistency.
387

388 Under site plans there are three types listed, a major, a minor and an
389 administrative.
390

391 Because we are more definitive in our definition of short-term rental we want to
392 remove this term from the definition of transient occupancy.
393

394 Marine Equipment Service and Repair was somehow overlooked and we would
395 like to place it in the land use table where it belongs.
396

397 Ms. Verdery stated they will clean this up a little bit and present it to the Council,
398 if they agree with the proposed amendments Staff will bring it back to the
399 Commission at a future meeting.
400

401 **6. Staff Matters**
402

403 **7. WorkSessions**
404

405 **8. Commission Matters**
406

407 **9. Adjournment**–Commissioner Spies adjourned the meeting at 10:10 a.m.
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409

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